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Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia

Report of the Secretary-General

Summary

In his previous report on the Khmer Rouge trials (A/69/536), the Secretary-General identified important progress made in the judicial work across all sets of proceedings before the Extraordinary Chambers in the Courts of Cambodia. The Secretary-General also highlighted the continuing financial challenges facing both the international and national components of the Extraordinary Chambers and requested the approval of a subvention of up to $28,983,200 for the period from 1 January to 31 December 2015.

By its resolution 69/274 A, the General Assembly authorized the Secretary-General, as an exceptional measure, to enter into commitments in an amount not to exceed $12.1 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2015. The Assembly requested the Secretary-General to report on the use of commitment authority in the context of the second performance report on the programme budget for the biennium 2014-2015.

In the present report, the Secretary-General provides details on the judicial progress achieved by the Extraordinary Chambers since his previous report, provides a projection regarding the anticipated use of the approved commitment authority for 2015, provides information on the estimated budget of the Extraordinary Chambers for 2016 and 2017 and seeks the Assembly's approval of an appropriation for a subvention for the international component of the Extraordinary Chambers in the amount of $25.15 million for 2016.

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I. Introduction

1. Since their establishment, and as detailed in the previous reports of the Secretary-General on the Khmer Rouge trials (A/58/617, A/59/432 and Add.1, A/60/565, A/62/304, A/67/380, A/68/532 and A/69/536), the Extraordinary Chambers in the Courts of Cambodia have achieved substantial progress towards fulfilling their mandate. Case 001, against Kaing Guek Eav, alias "Duch", was the first case tried before the Chambers. His conviction became final, as varied, by the appeal decision of the Supreme Court Chamber of 3 February 2012. He was sentenced to life imprisonment.

2. Over the past year, the Extraordinary Chambers have reached a point of peak workload, with full sets of appeal, trial and judicial investigation proceedings advancing simultaneously. In terms of the individual cases currently before the Chambers, case 002 has been severed into multiple trials. In the first trial, styled as case 002/01, the Trial Chamber pronounced its judgement on 7 August 2014, convicting two surviving senior leaders of the Khmer Rouge regime, Nuon Chea and Khieu Samphan, of crimes against humanity and sentencing them to life imprisonment. Both accused have appealed the convictions. Appeal proceedings before the Supreme Court Chamber have been fully briefed, and the Chamber has commenced initial appeal hearings.

3. A second trial, styled as case 002/02, contains additional charges against Nuon Chea and Khieu Samphan related to genocide, forced marriages and treatment of Buddhists, as well as alleged crimes committed at four security centres and three worksites and in a group of work cooperatives located in one administrative district. The trial commenced with opening statements on 17 October 2014, and evidentiary hearings commenced on 8 January 2015.

4. In cases 003 and 004, judicial investigations are ongoing and have made significant progress. One suspect in case 003 and two suspects in case 004 were formally charged in March 2015. It is currently projected in respect of those cases that the judicial investigations will conclude by the fourth quarter of 2015 and the first quarter of 2016, respectively, with decisions by the co-investigating judges on whether any of those cases will be sent for trial to follow by the end of 2016.

5. Following the request of the General Assembly in its resolution 68/247 B for a completion strategy for the Extraordinary Chambers, the latter prepared a completion plan[1] that highlights a number of remaining procedural milestones and projects the timelines required for judicial completion of the current caseload. The plan is updated on a quarterly basis. Given that no decision has been made yet as to whether any suspect in case 003 and/or case 004 will be indicted and sent for trial, it is difficult to project an overall timeline for the Court's judicial work. Nevertheless, in accordance with the Extraordinary Chambers' completion plan, it is projected that any appeal proceedings in case 002/02 would run into the first half of 2019. The timelines for any additional trial(s) in cases 003 and 004 can be projected only when the closing orders indicting or acquitting the charged persons in those cases are issued.

6. The Extraordinary Chambers have continued to face considerable financial challenges. The authorization by the General Assembly of a subvention to supplement the voluntary financial resources of the international component assisted

[1] Revision 6, 30 September 2015. Available from www.eccc.gov.kh/en/about-eccc/finances.

the international component in extending contracts of staff until the end of 2015, but it has proven difficult to attract the requisite voluntary funding to fully cover the costs of the international component in 2015. Notwithstanding the increase in financial contributions from the Royal Government of Cambodia, which, coupled with pledges from the international community, has significantly improved the overall funding situation with respect to the national component, a temporary funding shortfall has resulted in significant disruption to the national component and non-payment of staff in August 2015.

II. Progress made in the case files

A. Case 001: Kaing Guek Eav, alias "Duch"

7. Kaing Guek Eav continues to serve the remainder of his life sentence at Kandal provincial prison.

B. Case 002: Nuon Chea, Ieng Sary, Khieu Samphan, Ieng Thirith

8. On 15 September 2010, the Extraordinary Chambers' co-investigating judges issued a closing order indicting the former Chair of the Democratic Kampuchea People's National Assembly and Deputy Secretary of the Communist Party of Kampuchea, Nuon Chea, the former Deputy Prime Minister for Foreign Affairs of Democratic Kampuchea, Ieng Sary, the former Head of State of Democratic Kampuchea, Khieu Samphan, and the former Minister of Social Affairs of Democratic Kampuchea, Ieng Thirith, for crimes against humanity, grave breaches of the Geneva Conventions of 1949 and genocide against the Cham and Vietnamese ethnic groups. Ieng Thirith had been found unfit to stand trial on medical grounds and remained under judicial supervision until her death in August 2015 and subsequent termination of the proceedings. The proceedings against Ieng Sary were also terminated upon his death in March 2013.

9. The charges in case 002 have been severed into two separate cases, styled as cases 002/01 and 002/02, each with a separate trial and judgement. Case 002/01 focused on alleged crimes against humanity relating to the forced movement of the population from Phnom Penh (phase one) and later from the regions (phase two) and the alleged execution of former Khmer Republic soldiers at Tuol Po Chrey. It also considered the structure of Democratic Kampuchea, the history of the Communist Party of Kampuchea, the organizational structure of Democratic Kampuchea and the roles of the accused in relation to the policies of the Democratic Kampuchea regime relevant to all charges. Case 002/02 encompasses charges relating to genocide, forced marriage and rape, internal purges, treatment of Buddhists and targeting of former Khmer Republic officials, in addition to alleged crimes committed at four security centres (including S-21), three worksites and a number of adjacent work cooperatives. By order of the Supreme Court Chamber on 29 July 2014, further charges not encompassed in the two cases were provisionally stayed pending appropriate disposal by the Trial Chamber.

10. On 7 August 2014, the Trial Chamber delivered its judgement in the historic proceedings in case 002/01. It found that Nuon Chea and Khieu Samphan had, through their participation in a joint criminal enterprise, committed the crimes against

humanity of murder, political persecution and other inhumane acts (comprising forced transfers and attacks against human dignity) during movement of population (phase one), political persecution and other inhumane acts (comprising forced transfers and attacks against human dignity) during movement of population (phase two) and murder and extermination through executions of Khmer Republic officials at Tuol Po Chrey. They were also found to have planned, instigated, aided and abetted the aforementioned crimes during movement of population (phases one and two) and at Tuol Po Chrey. In addition, Nuon Chea was found to have ordered the crimes and to have been responsible as a superior for all crimes committed in the course of movement of population and at Tuol Po Chrey. The Trial Chamber sentenced both Nuon Chea and Khieu Samphan to life imprisonment.

11. Appeal proceedings in respect of the trial judgement are now well advanced. The co-prosecutors filed an appeal on 28 November 2014, seeking declaratory relief on the applicability of one specific form of the doctrine of joint criminal enterprise as a mode of responsibility before the Extraordinary Chambers. Both Nuon Chea and Khieu Samphan filed comprehensive appeals against the trial judgement on 29 December 2014, advancing a total of 223 and 150 grounds of appeal, respectively. Both accused allege that the Trial Chamber erred both in law and in fact on a broad variety of grounds and request the Supreme Court Chamber to reverse the trial judgement and acquit the accused. The Supreme Court Chamber held initial appeal hearings on this particularly complex appeal between 2 and 6 July 2015. Further appeal hearings are expected later in 2015, and a judgement on the appeals is projected for delivery by the end of the second quarter of 2016.

12. In respect of the separate trial in case 002/02, the Trial Chamber heard opening statements by the co-prosecutors in case 002/02 on 17 October 2014. The Trial Chamber has organized the evidence in the trial in case 002/02 into seven distinct segments. Following a delay caused by the absence of counsel on a variety of grounds and the Trial Chamber's resolution of the matter, presentation of evidentiary hearings commenced on 8 January 2015. The two initial trial segments addressed cooperatives, one security centre and three worksites, in respect of which the Trial Chamber had completed the hearing of evidence at the time of submission of the present report.

13. On 7 September 2014, the Trial Chamber commenced its third trial segment, addressing allegations related to the treatment of the Cham ethnic group, including charges of genocide. By that point the Trial Chamber had heard the testimonies of 65 individuals: 39 witnesses, 25 civil parties and 1 expert over the course of 98 hearing days, as well as assessed a broad range of documentary evidence. The presentation of evidence is currently projected to proceed into the third quarter of 2016, with closing statements in the fourth quarter of 2016 and a resulting trial judgement in the third quarter of 2017.

C. Cases 003 and 004

14. On 7 September 2009, the Extraordinary Chambers' international co-prosecutor filed two introductory submissions (subsequently supplemented by further submissions from the international co-prosecutor) with the co-investigating judges alleging the commission of further crimes falling under the jurisdiction of the Extraordinary Chambers by five additional suspects. The crimes under investigation

are genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the 1956 Penal Code of Cambodia. Of the five suspects, three have been charged. One additional suspect in case 003 has died, while the identity of one further suspect under investigation in case 004 remains confidential.

15. Pursuant to submissions filed by the international co-prosecutor, the co-investigating judges are seized of 10 crime scenarios in case 003 and 55 crime scenarios in case 004. Under the internal rules, the co-investigating judges are legally obligated to investigate all crime scenarios of which they have been seized, although they have the power, at the time of notification of the conclusion of a judicial investigation, to reduce its scope to a still representative case.

16. The current international co-investigating judge was appointed on 31 July 2015, following the resignation of his predecessor for personal reasons. Since the assumption by the previous international co-investigating judge of his duties, significant investigative work had been performed, resulting in 115 field missions and 780 witness interviews completed. It is currently projected that the judicial investigations in cases 003 and 004 will be concluded by December 2015 and March 2016, respectively. Closing orders with indictments and/or dismissal orders are expected to be issued by the co-investigating judges by the end of September and December 2016, respectively.

17. On 3 March 2015, the then international co-investigating judge charged Meas Muth and Im Chaem in absentia in cases 003 and 004, respectively. Meas Muth was charged with alleged crimes against humanity, war crimes and violations of the 1956 Penal Code of Cambodia, while Im Chaem was charged with alleged crimes against humanity and violations of the 1956 Penal Code of Cambodia. Charging was undertaken in absentia, as the charged persons had ignored formal summonses and ensuing arrest warrants had not been executed. On 27 March 2015, the then international co-investigating judge charged Ao An in person in case 004 with alleged crimes against humanity and violations of the 1956 Penal Code of Cambodia. Following the charging, the charged persons gain full access to the case file and can participate in the judicial investigations through their co-lawyers. On 2 June 2015, the co-investigating judges issued a decision dismissing the criminal allegations against Sou Met, until then a suspect in case 003, on account of his death in 2014.

18. In June and July 2015, the then international co-investigating judge declassified extensive material following the application of a charged person in case 003, Meas Muth. The material made apparent that three arrest warrants issued by the then international co-investigating judge had gone unexecuted, on the basis of a variety of grounds advanced by government officials. In a note verbale dated 12 August 2015 from the United Nations Secretariat to the Royal Government of Cambodia, the United Nations recalled applicable provisions of the legal framework of the Extraordinary Chambers and expressed serious concerns as to compliance with article 25 of the Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea, in view of the continuing failure to execute arrest warrants issued by competent judicial organs of the Extraordinary Chambers. The United Nations Secretariat sought the views of the Royal Government of Cambodia on the matter and respectfully requested the Government to liaise with all competent authorities to ensure that all such authorities carry out their duties in furtherance of the applicable legal framework and, in particular, to ensure that any

present or future arrest warrants and any other requests for assistance or orders from competent authorities of the Extraordinary Chambers be executed without delay.

19. At the time of finalizing the present report, the matter was the subject of ongoing diplomatic correspondence between the United Nations and the Royal Government of Cambodia.

20. The recently appointed international co-investigating judge will continue the investigative work undertaken by his predecessor, following his own review of the remaining work to be completed in the two cases. It is expected that any impact that this may cause on the projected investigative timelines would be more fully assessed in the fourth quarter of 2015.

III. Completion plan and road map: projected timelines

21. Following the request of the General Assembly for a completion strategy with a clear road map, the Extraordinary Chambers prepared a completion plan that details the remaining work to be completed in the proceedings of which they are currently seized.[2] It is clarified that the current proceedings represent the entire caseload of the Chambers, as confirmed by the international co-prosecutor. Assessing each case individually, the plan sets out a road map in which the remaining procedural milestones are highlighted and the timelines required for the judicial completion of the current caseload are projected. The plan was first prepared in March 2014 and subsequently revised quarterly to reflect the most accurate perspective as the proceedings evolved. It also sets out a series of measures that may assist expeditious completion.

22. On the basis of current projections, the earliest anticipated completion of judicial proceedings in case 002 will be in the third quarter of 2017, with the delivery of a trial judgement in case 002/02, absent any appeal. The timing of the final conclusion of judicial proceedings in case 002/02 will depend on the filing of any appeal, and current projections estimate the delivery of any appeal judgement in that case to be in 2019.

23. The phases of judicial investigation in cases 003 and 004 are projected to conclude in 2015 and 2016, respectively. Should either or both of those cases be sent for trial, in whole or in part, projections for trial timelines would then need to be assessed, taking into account the scope of the proceedings.

24. Following the milestones reached in 2015, it is projected that in 2016 the Supreme Court Chamber will issue an appeal judgement in respect of case 002/01, bringing that case to a close. Two milestones are expected for 2016 in respect of case 002/02: the conclusion of the presentation of evidence at trial and the conclusion of trial closing statements. It is projected that a further three milestones will be reached in 2016 in respect of cases 003 and 004: the conclusion of judicial investigation in case 004 and the issuance of closing orders in cases 003 and 004, with decisions of the co-investigating judges to send either or both of the cases for trial, in whole or in part, or to dismiss the proceedings.

[2] The most recent revision (revision 6, 30 September 2015) is available from www.eccc.gov.kh/en/about-eccc/finances.

25. It is projected that four milestones will be reached in 2017: the delivery of a trial judgement in case 002/02 and the filing of notices of appeals, if any, as well as the disposal of any appeals against any closing orders in cases 003 and 004 with a decision of the Pretrial Chamber to either confirm the closing order (either partially or in full) or dismiss the case.

26. In 2018, the Supreme Court Chamber will, in the event of any appeal against the trial judgement in case 002/02, be fully occupied with appeal hearings and deliberations. The delivery of the judgement on any such appeal will be expected to follow in 2019 and will bring that case to a close.

IV. Current financial position

27. Previous reports of the Secretary-General have highlighted to Member States the financial challenges faced by the Chambers, which have continued in 2014 and 2015. In previous years, the impacts of those challenges have included recruitment freezes and uncertainty of staff working on month-to-month contracts with the potential for distraction from the discharge of core functions. National staff had gone without contracts and salaries for prolonged periods, resulting, inter alia, in a walkout by 100 staff in September 2013. The year 2015 saw a significant and welcome improvement in the situation of the national component, with the Royal Government of Cambodia meeting more than 60 per cent of the costs directly. The timing of payments of other pledges meant that national staff were unpaid in August 2015, although contributions sufficient to cover the remaining national costs for 2015 are expected to be received imminently. In terms of the international component, despite the intensive efforts of the Principal Donors Group and the Special Expert to advise on United Nations Assistance to the Khmer Rouge Trials, including in seeking to broaden the traditional donor pool, the funding shortfall has worsened significantly compared with previous years.

28. Pursuant to the Agreement between the United Nations and the Royal Government of Cambodia, the United Nations is responsible for defraying the costs required to support the international component of the Chambers, while the Royal Government of Cambodia is responsible for defraying the costs of the national component, including salaries of national personnel, utilities and service expenses of the Chambers. In its resolution 69/274 A, the General Assembly encouraged all Member States to provide voluntary support for both the international and national components of the Extraordinary Chambers and requested the Secretary-General to continue his intensive efforts to obtain additional voluntary contributions, including by broadening the donor base, for funding the future activities of the Extraordinary Chambers.

29. Historically, funding for the international component of the Chambers has been raised each year from a limited number of Governments, most of which participate in the Principal Donors Group. Since 2008, the Secretary-General has designated an expert to provide short-term technical assistance and guidance to the United Nations Assistance to the Khmer Rouge Trials. The current Special Expert assumed his duties in January 2012 and has developed a fundraising strategy for the Extraordinary Chambers. The strategy has been shared with the Principal Donors Group for feedback and, inter alia, focuses on efforts to broaden the donor base through outreach to potential new donor Governments. Previous fundraising

activities, including two pledging conferences (in 2010 and 2013), a written appeal from the Secretary-General to all Member States and bilateral requests by senior United Nations officials to donor countries, were unsuccessful in generating significant new sources of funding. In coordination with the Special Expert, the Principal Donors Group approached a number of permanent missions to the United Nations in New York through a letter and funding appeal in September 2015.

30. Notwithstanding those efforts, the international component of the Chambers continues to face funding shortages. At the time of writing, the full amount of $12.1 million authorized by the General Assembly had been drawn upon. Should the level of voluntary contributions as pledged be received, the use of the commitment authority approved by the Assembly is expected to be reduced to $8.83 million by the end of 2015.

31. The situation of the national component in 2015 has been mixed. On the one hand, overall contributions have improved, in particular with a significantly increased contribution from the Royal Government of Cambodia. On the other hand, cash flow issues have resulted in disruptions to and unreliable payment to staff since mid-2015, as had occurred from time to time in previous years.

32. In previous years, the national component had suffered from serious financial constraints, leading to intensive efforts by the Extraordinary Chambers, together with senior government officials of the Royal Government of Cambodia, as well as Cambodian ambassadors in foreign capitals, to jointly seek support from key Governments for the national component. The Special Expert has raised the national component's requirements during his visits and regular communications with numerous Governments and with the European Union during the past two years. He also wrote jointly with the Deputy Prime Minister of the Royal Government of Cambodia to the Governments of the States members of the Association of Southeast Asian Nations, requesting coordinated assistance to reduce the national component's budget shortfall. In 2014, three new donors to the national component of the Chambers emerged. Three existing major donors to the international component also agreed to a temporary transfer of funds to the national component's budget to cover requirements during the second and third quarters of 2014. The latter transfer, however, created considerable strain on the international component's budget during the final months of 2014.

33. The United Nations also made intensive efforts to encourage contributions directly from the Royal Government of Cambodia for the national component, including salaries of national staff, in meeting its financial obligations under the Agreement between the United Nations and the Royal Government of Cambodia. In addition to meetings involving other high-level staff, the Secretary-General discussed this initiative with the Prime Minister, Samdech Akka Moha Sena Padei Techo Hun Sen, in October 2014 and was informed that the Royal Government of Cambodia would pay Cambodian salaries for the third quarter of 2014 and the first half of 2015 directly, in addition to its traditional contribution covering building and operating costs. In 2015, the Royal Government of Cambodia supported the Extraordinary Chambers with a contribution of $1.6 million for operational costs and $2.5 million for the salaries of national staff, which amounted to more than 60 per cent of the budget of the national component. Together with an expected contribution from a major donor, that will result in an expected shortfall of just over $80,000 for 2015.

From that perspective, the situation of the national component has significantly improved in 2015.

34. Owing to the timing of contributions from international donors, national staff have faced problems in the course of the second half of 2015 similar to those in previous years: not being paid reliably and on time for their work. Temporary funding shortages in July 2015 were resolved with an exceptional temporary transfer arranged by one funding partner for the Chambers. As no funding was available for August 2015, payment of national salaries was postponed until the receipt of expected voluntary contributions. In addition to a serious effect on national staff, there is potential for a significant resulting impact on the work of the Chambers, including possible delays to the completion of its judicial mandate.

35. Further to the Agreement between the United Nations and the Royal Government of Cambodia, the Secretary-General and the Government are committed to achieving sustainable funding for the Extraordinary Chambers, including seeking to avoid the risk of funding shortfalls for the national component in 2016 and future years. Regular and predictable financing for the national component will be necessary to ensure adequate contractual and working conditions for staff and the completion of the judicial mandate of the Chambers within the most efficient timelines.

36. Securing pledges for the budget is a process that continues throughout the year, owing to the varied fiscal years of the donors. Thus, it is impossible to target one part of the year for securing all pledges and for the Court each year to know what voluntary funding will be forthcoming when the annual budget is being prepared or even when it is initially unveiled. Given the sometimes substantial gap between pledges and payments on those pledges, there is little certainty attached until each contribution is actually received. The Secretariat, supported by the Special Expert, continues to engage with the Principal Donors Group on forthcoming pledges and payments so as not to imperil monthly obligations for salaries and expenses of United Nations personnel.

37. The General Assembly approved a commitment authority of $15.54 million for the international component for 2014; those funds, however, were never drawn upon, as voluntary funding eventually covered in full the international component's obligations during 2014. The Assembly again approved a commitment authority for 2015 for a lesser amount of $12.1 million for the international component's budget. That commitment authority has functioned as a line of credit, permitting the United Nations to sign one-year contracts for international officials and staff at the Chambers, and as a source of funds if voluntary funding falls short. It is a critical requirement that allows salaries and expenses of personnel to be paid on time and without any disruption to the work of the Chambers.

38. In accordance with General Assembly resolution 69/274 A, the Secretary-General will report on the use of the commitment authority for 2015 in the context of the second performance report on the programme budget for the biennium 2014-2015. Despite some recent new pledges for the international component, a significant funding shortfall remains.

V. Funding requirements of the Extraordinary Chambers for 2016-2017

39. While the Chambers' completion plan projects judicial activity until 2019, and possibly beyond, in the event that cases 003 and 004 should proceed to trial, the group of interested States has requested that budget proposals be prepared on a two-year basis. The international and national components are funded separately, with the Secretariat responsible for the receipt and management of voluntary funds for the international component and the Royal Government of Cambodia responsible for funding the national component, including through contributions from the international community for that purpose. The proposed budget for the Extraordinary Chambers for 2016-2017 defines all of the resources for both components, including staff resources, required to operate the Chambers efficiently. The resource requirements of the international component of the Extraordinary Chambers for 2016-2017 are summarized in tables 1 and 2.

Table 1
Financial resources for the international component of the Extraordinary Chambers
(Thousands of United States dollars)

Component	*2014 expenditure*	*2015 budget*	*Resource requirements for 2016-2017*		
			2016	*2017*	*Total*
A. Judicial Offices and Chambers	8 455.4	9 156.6	9 401.9	6 222.5	15 624.4
B. Defence and Victims Support Section	2 938.3	4 805.1	4 522.1	3 211.9	7 734.0
C. Office of Administration	10 334.4	13 134.9	11 773.7	10 654.9	22 428.6
Total	**21 728.1**	**27 096.6**	**25 697.7**	**20 089.3**	**45 787.0**

Table 2
Post resources for the international component of the Extraordinary Chambers

Category	*2014*	*2015*	*2016*	*2017*
Professional and above				
Judges (D-2)	12	12	12	12
D-1	1	1	1	1
P-5	6	6	7	7
P-4	18	19	18	16
P-3	38	38	38	30
P-2	5	7	6	2
Subtotal	**80**	**83**	**82**	**68**
Other levels				
Field Service	25	25	23	21

Category	*2014*	*2015*	*2016*	*2017*
National Professional Officer	9	9	10	10
General Service	45	45	45	39
Subtotal	**79**	**79**	**78**	**70**
Total	**159**	**162**	**160**	**138**

40. In 2016, resource requirements for the international component in the amount of $25,697,700 would provide for the continuation of the 160 posts (12 D-2, 1 D-1, 7 P-5, 18 P-4, 38 P-3, 6 P-2, 23 Field Service, 10 National Professional Officers, 45 General Service) and non-post items, such as non-staff compensation, consultants and experts, travel of staff, travel of witnesses, contractual services, general operating expenses, supplies, and furniture and equipment. In 2017, resource requirements in the amount of $20,089,300 would provide for the continuation of 138 posts (12 D-2, 1 D-1, 7 P-5, 16 P-4, 30 P-3, 2 P-2, 21 Field Service, 10 National Professional Officers, 39 General Service) and non-post items, such as non-staff compensation, consultants and experts, travel of staff, travel of witnesses, contractual services, general operating expenses, supplies, and furniture and equipment.

41. For 2016-2017, the total funding requirements for both the national and international components are estimated at $32.34 million for 2016 and $26.46 million for 2017, a total of $58.80 million. Of that amount, $45.79 million is for the international component and $13.01 million for the national component. On the international side, there is currently a shortfall in pledges of $8.83 million for 2015 and $45.24 million for 2016-2017. On the basis of the pattern of contributions in 2014-2015, it is expected that resources will be pledged incrementally and in varied amounts, with fund balances available at any given time insufficient to ensure reasonable duration of staff contracts. The operational reserve of $4.2 million that had accumulated since the Chambers' inception was fully depleted in 2012 to meet staff payroll costs and remains at zero. With continuing shortfalls in voluntary contributions, the Secretariat has been unable to reinstate any reserve and thus has no funding mechanism to address unforeseen operational contingencies.

42. To address the above-mentioned situation, the Secretary-General is proposing a subvention of $25.15 million for the international component for the period from 1 January to 31 December 2016, taking into account the existing pledges of $546,400. At the same time, the Secretary-General will continue intensive fundraising efforts. The requested subvention would allow the United Nations to issue contracts to international staff of up to one year, or for shorter periods if the defined need is less, thereby providing stability to staff to enable them to fully focus on ensuring the smooth and uninterrupted operation of the Extraordinary Chambers. The Secretary-General proposes that the subvention be available to be drawn upon, should there be insufficient extrabudgetary funds on hand to meet the international component's salary and operational costs.

43. Despite a significant improvement in the situation of the national component for 2015, the timing of contributions has created serious difficulties, and overall funding remains uncertain in 2016-2017 (with current estimated requirements for the national component for that period amounting to $13.01 million) and beyond. While the Royal Government of Cambodia is responsible under the Agreement with

the United Nations to raise funding for the entire budget of the national component, the provision in 2015 of $4.1 million directly by the Royal Government of Cambodia is a significant increase compared with previous years. The Royal Government of Cambodia has reiterated its strong commitment to the Extraordinary Chambers' ongoing process and to addressing its funding challenges. The United Nations will also continue to support the Government in seeking to obtain additional voluntary contributions from the international community for the national component. As has been seen in previous years, any funding shortfall is likely to have a serious impact on the activities of the Extraordinary Chambers as a whole.

VI. Conclusions

44. **The Extraordinary Chambers have made significant progress across all sets of current proceedings. Following the judgements in cases 001 and 002/01, the landmark trial in case 002/02 has made substantial progress during 2015. The evidence presently being heard in respect of charges of genocide underscores the vital importance of the Chambers' work in addressing the most serious international crimes. Appeal hearings have begun in respect of the multiple appeals against the judgement in case 002/01, moving those proceedings closer to conclusion. Judicial investigations in cases 003 and 004 have reached key milestones in the charging of three persons but have contracted in personal scope with the confirmed death of an additional suspect.**

45. **The financial challenges faced by the Extraordinary Chambers persist and, in the case of the international component, the situation has worsened over the past year. At the same time, the Secretary-General welcomes the provision of the majority of the budget of the national component by the Royal Government of Cambodia in 2015 and acknowledges the commitment to the success of the Chambers thereby shown by the Government.**

46. **It remains critical for the international community to ensure that the Extraordinary Chambers have the financial means required to ensure full accountability, within the mandate of the Chambers, for the shocking scale of crimes perpetrated during the former Khmer Rouge regime. Financial failure of the Chambers would constitute a renewed tragedy in the quest for justice of the people of Cambodia, who have waited four decades for efforts to reach belated fruition, and would constitute a serious setback to the international community's fight against impunity. With the now confirmed death in 2014 of one suspect and in 2015 of an additional accused person, and with other accused persons, charged persons, suspects, civil parties and witnesses all at advancing ages, the Chambers are making every effort to expedite their work so that justice can be achieved rather than frustrated by the further passage of time.**

VII. Recommendations

47. **The Secretary-General requests the General Assembly:**

(a) **To take note of the resource requirements of the Extraordinary Chambers in the Courts of Cambodia for the period from 1 January 2016 to**

31 December 2017, estimated at $45,240,600 for the international component of the Extraordinary Chambers to complete its judicial mandate;

(b) To appropriate the amount of $25,151,300 as a subvention for 2016 for the international component of the Extraordinary Chambers in the Courts of Cambodia under the proposed programme budget for 2016-2017;

(c) To decide to consider the report of the Secretary-General on a subvention amounting to $20,089,300 for 2017 for the international component of the Extraordinary Chambers in the Courts of Cambodia at the main part of its seventy-first session.

Annex

Financial status of the Extraordinary Chambers in the Courts of Cambodia

International component: United Nations Assistance to the Khmer Rouge Trials

Table A.1
Financial status of the international component as at 31 December 2014
(Thousands of United States dollars)

A. Income	
Contributions received from 2005 to 2014	167 480.1
Interest earned from 2005 to 2014 and other adjustments	4 918.5
Subtotal	**172 398.5**
B. Expenditure[a]	(176 685.6)
Fund balance	**(4 287.1)**

[a] Figures include a grant of $3,255,000 and loans of $780,000 to the national component to cover salary costs. These costs are also reflected in the national component tables.

Table A.2
Financial status of the international component for 2015
(Thousands of United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2015	(4 287.1)
Contributions received from 1 January to 31 August 2015	10 293.8
Subtotal	**6 006.7**
B. Expenditure as at 31 August 2015[a]	(16 233.0)
Cash balance	**(10 226.3)**
C. Outstanding pledges for 2015[b]	10 681.9
Total funds available	**455.6**
D. Estimated expenditure from September to December 2015	(9 281.1)
Projected cash shortfall as at 31 December 2015	**(8 825.5)**
E Estimated requirements for 2016[c]	(25 697.7)
F. Outstanding pledges for 2016[d,e]	546.4
Estimated shortfall for 2016	**(25 151.3)**

(Footnotes on following page)

(Footnotes to Table A.2)

[a] Figures exclude a temporary transfer of US$ 183,000 to the national component, from a funding partner of the international component, to bridge funds for covering July 2015 salary costs pending the receipt of a major expected contribution. These costs are also reflected in the national component tables.

[b] European Union (€3,500,000 revalued as at 1 September 2015); Australia (AUD 3,250,000 revalued as at 1 September 2015; Japan (US$ 1,221,818); United States of America (US$ 3,200,000).

[c] 2016 revised budget figures are subject to change pending review and approval by the group of interested States.

[d] Germany (€500,000 revalued as at 1 September 2015).

[e] Figures exclude the European Union pledge (€3,400,000) for 2016 for both the international and national components, of which the breakdown is to be decided in connection with the budget for 2016-2017.

Indicative resource requirements for the United Nations Assistance to the Khmer Rouge Trials

Table A.3.1

Requirements by component and funding availability

(Thousands of United States dollars)

Component	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (estimated)*	*1 January-31 December 2016 (estimated)*	*1 January-31 December 2017 (estimated)*
1. Judicial Office	8 455.4	10 101.4	9 401.9	6 222.5
2. Defence and victims support	2 938.3	3 165.5	4 522.1	3 211.9
3. Office of Administration	10 334.4	12 247.2	11 773.7	10 654.9
Total expenditure	**21 728.1**	**25 514.1**	**25 697.7**	**20 089.3**
Balance brought forward	655.7	(4 287.1)		
Pledges and contributions	16 785.3	20 975.8	546.4	
Total income	**17 441.0**	**16 688.7**	**546.4**	
Surplus/(shortfall)	**(4 287.1)**	**(8 825.4)**	**(25 151.3)**	**(20 089.3)**

Table A.3.2
Requirements by object of expenditure and funding availability, international component
(Thousands of United States dollars)

Object of expenditure	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (estimated)*	*1 January-31 December 2016 (estimated)*	*1 January-31 December 2017 (estimated)*
Posts	13 921.3	14 937.9	15 280.1	12 664.1
Non-staff compensation	2 135.1	2 289.8	2 355.0	2 283.0
Consultants and experts	3 197.9	5 574.2	5 568.8	3 132.8
Travel of staff	135.6	150.4	186.9	53.1
Travel of witnesses	33.3	67.5	78.2	19.4
Contractual services[a]	1 442.3	1 713.2	1 331.4	1 041.9
General operating expenses	433.2	390.5	488.6	484.6
Supplies	248.2	248.2	270.9	189.2
Furniture and equipment	181.2	142.4	137.8	221.2
Total expenditure	**21 728.1**	**25 514.1**	**25 697.7**	**20 089.3**
Pledges and contributions[b]	16 785.3	20 975.8	546.4	
Balance brought forward	655.7	(4 287.1)		
Total income	**17 441.0**	**16 688.7**	**546.4**	**20 089.3**
Surplus/(shortfall)	**(4 287.1)**	**(8 825.4)**	**(25 151.3)**	**(20 089.3)**

[a] Figures include 2014 loans to the national component for payment of local salaries.
[b] Figures exclude the European Union pledge (€3,400,000) for 2016 for both the international and national components, of which the breakdown is to be decided in connection with the budget for 2016-2017.

National component: Cambodia

Table A.4
Financial status of the Chambers as at 31 December 2014
(Thousands of United States dollars)

A. Income	
Contributions received from 2005 to 2014	55 821.5
B. Expenditure	(55 677.0)
Fund balance	**144.5**

Table A.5
Financial status of the Chambers
(Thousands of United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2015	144.5
Contributions received from 1 January to 31 July 2015[a]	4 483.1
Subtotal	**4 627.6**
B. Expenditure as at 31 July 2015	(3 816.2)
Cash balance[b]	**811.4**
C. Outstanding pledges for 2015[c]	2 043.6
Total funds available	**2 855.0**
D. Estimated expenditure from August to December 2015	(2 752.5)
E. Return of a temporary transfer to a funding partner for 50 per cent of July 2015 staff salaries	(183.0)
Projected cash shortfall as at 31 December 2015	**(80.5)**
F. Estimated requirements for 2016	6 643.5
G. Contributions and outstanding pledges for 2016[d]	–
Estimated shortfall for 2016	**(6 643.5)**

[a] Includes an exceptional temporary transfer from a funding partner of the international component in the amount of $183,000 for 50 per cent of July salaries.

[b] $780,158 not disbursable for payroll costs; $30,167 earmarked for the Victims Support Section; $990 remaining balance of the exceptional temporary transfer for July 2015 salaries; $175 remaining balance for the Office of the Co-Prosecutors internship programme.

[c] €2,000,000 from the European Union earmarked for national staff salaries (inclusive of programme support costs) and $43,582 from Germany earmarked for the Victims Support Section.

[d] Figures exclude the European Union pledge (€3,400,000) for 2016 for both the international and national components, of which the breakdown is to be decided in connection with the budget for 2016-2017.

Indicative resource requirements for the national component

Table A.6.1
Requirements by component and funding availability
(Thousands of United States dollars)

Component	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (estimated)*	*1 January-31 December 2016 (estimated)*	*1 January-31 December 2017 (estimated)*
1. Judicial Office	1 449.5	1 689.8	1 778.9	1 556.5
2. Defence and victims support	462.3	573.3	512.1	510.1
3. Office of Administration	4 151.5	4 305.5	4 352.5	4 305.2
Total expenditure	**6 063.3**	**6 568.6**	**6 643.5**	**6 371.8**
Balance brought forward	227.4	144.5		
Pledges and contributions	5 980.4	6 343.7		
Total income	**6 207.8**	**6 488.2**		
Surplus/(shortfall)	**144.5**	**(80.4)**	**(6 643.5)**	**(6 371.8)**

Table A.6.2
Post requirements

Category	*January-December 2014*	*January-December 2015*	*January-December 2016*	*January-December 2017*
Professional and above				
D-1 (judges and Director of Administration)	14	15	15	15
P-5	1	1	1	1
NO-D	20	21	22	21
NO-C	19	19	17	16
NO-B/NO-A	16	19	19	18
Subtotal	**70**	**75**	**74**	**71**
Other levels				
General Service	110	110	111	111
Subtotal	**110**	**110**	**111**	**111**
Total	**180**	**185**	**185**	**182**

Table A.6.3
Requirements by object of expenditure and funding availability, national component
(Thousands of United States dollars)

Object of expenditure	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (estimated)*	*1 January-31 December 2016 (estimated)*	*1 January-31 December 2017 (estimated)*
Posts	3 125.2	3 503.4	3 570.2	3 390.7
Non-staff compensation	705.9	900.8	911.0	868.2
Other staff costs	172.0	174.3	236.7	231.3
Consultants and experts	136.2	137.9	143.4	143.4
Travel of staff	55.3	71.5	49.6	49.4
Contractual services	1 308.2	1 022.3	1 030.3	286.5
General operating expenses	414.7	490.1	490.1	488.1
Hospitality	24.5	29.1	29.4	29.4
Premises alteration	52.1	98.1	99.1	101.1
Training and meetings	69.2	141.1	83.7	83.7
Total expenditure	**6 063.3**	**6 568.6**	**6 643.5**	**6 371.8**
Pledges and contributions[a]	5 980.4	6 343.7		
Balance brought forward	227.4	144.5		
Total income	**6 207.8**	**6 488.2**		
Surplus/(shortfall)	**144.5**	**(80.4)**	**(6 643.5)**	**(6 371.8)**

[a] Figures exclude the European Union pledge (€3,400,000) for 2016 for both the international and national components, of which the breakdown is to be decided in connection with the budget for 2016-2017.

Table A.7
Financing of the United Nations Assistance to the Khmer Rouge Trials, 2016-2017
(Thousands of United States dollars)

	1 January-31 December 2016	*1 January-31 December 2017*	*Total estimated requirements*
A. Requirements — international component	25 151.3	20 089.3	45 240.6
B. Requirements — national component	6 643.5	6 371.8	13 015.3